

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

No. 10F-BD021-BNK

CONSENT ORDER

Respondents.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

13

14
15
16
17
18

19
20
21

22
23

24
25
26

1 a. Failed to deposit with a local depository all monies collected by them and due and
2 owing clients, and to keep such monies deposited until those monies or equivalent
3 amounts are remitted to such clients; specifically:

- 4 i. Respondents have over transferred trust funds to the operating account
5 during twelve-month review period causing trust shortages during the
6 twelve month-end period;
- 7 ii. Respondents used trust funds to pay operating expenses; and
- 8 iii. Respondents experienced trust shortages in the combined trust account
9 and operating account during the twelve month-ends of the twelve-month-
10 review period ending January 31, 2009;

11 Trust Shortages are as follows:

12 <u>MONTH</u>	13 <u>TRUST</u> <u>ACCOUNT</u>	14 <u>OPERATING</u> <u>ACCOUNT</u>
15 February 2008	<\$61,668>	\$2,230
16 March 2008	<\$53,139>	\$4,250
17 April 2008	<\$94,690>	\$11,374
18 May 2008	<\$90,061>	\$1,629
19 June 2008	<\$97,114>	\$5,444
20 July 2008	<\$63,205>	<\$2,418>
21 August 2008	<\$84,516>	<\$1,284>
22 September 2008	<\$66,374>	<\$2,021>
23 October 2008	<\$48,190>	\$750
24 November 2008	<\$71,720>	<\$392>
25 December 2008	<\$52,340>	<\$156>
26 January 2009	<\$46,643>	<\$585>

- 20 iv. The Department has subsequently learned that as of September 30, 2009,
21 the Company's trust shortage was reduced to <\$12,610> due to recent
22 profits in collection operations. The operating account balance as of this
23 date was <\$241>.

24 b. Failed to keep and maintain books, accounts, and records adequate to provide a
25 clear and readily understandable record of all business conducted by the
26 collection agency, including the Respondent's trust account reconciliations,

1 prepared at least once a month;

2 i. Respondents did not provide trust account reconciliations for the
3 respective trust accounts for the exam period; and

4 ii. The trust check register/general edger accounts were used for month-end
5 balances;

6 c. Failed to keep and maintain books, accounts, and records adequate to provide a
7 clear and readily understandable record of all business conducted by the
8 collection agency, including books, records, and files maintained so that the
9 Superintendent can easily conduct an unannounced spot check, as well as the
10 required examinations and investigations;

11 i. Respondents' November 30, 2008, balance sheet submitted with their
12 annual renewal is not supported by the records provided during the
13 examination for the same date;

14 ii. The balance sheet submitted shows a trust balance of \$97,382 and a trust
15 liability of <\$92,486>; and

16 iii. The trust check register and trust general ledger show the November 30,
17 2008, month-end trust account balance of <\$71,729> and no client
18 liability as clients are paid at month-end;

19 d. Failed to withdraw from their trust account all fees and commissions due to
20 Respondents under their contract with a client and deposit them directly into their
21 own operating account; and failing to deposit in their trust account only the funds
22 they have collected for their client; specifically:

23 i. Respondents' trust shortages were caused by over transfers of trust funds
24 to the operating account; and

25 ii. Respondents commingled trust funds with company funds by maintaining
26 trust funds in the operating account;

1 e. Failed to meet their financial responsibility and Respondents reported a negative
2 net worth of <\$130,360> as of October 31, 2008; specifically:

3 i. The company's retained earnings were <191,061> and profits to date were
4 \$42,819;

5 ii. The company's negative worth resulted from both negative retained
6 earnings and the negative trust account balance of <48,190> as of the
7 October 31, 2008, date;

8 iii. The Department has subsequently learned that as of August 31, 2009, the
9 company's negative net worth had decreased to <\$71,128> due to
10 profitable collection operations.

11 iv. Respondents are insolvent, which is a ground for license revocation.

12 5. These Findings of Fact shall also serve as Conclusions of Law.

13 **CONCLUSIONS OF LAW**

14 1. Pursuant to Title 32, Chapter 9 of the Arizona Revised Statutes, the Superintendent is
15 charged with the duty to regulate all persons engaged in the collection agency business and with the
16 enforcement of statutes, rules and regulations relating to collection agencies.

17 2. By the conduct set forth in the Complaint, Respondents have violated statutes and
18 rules governing collection agents as follows:

19 a. A.R.S. § 32-1055(D)(2), by failing to deposit with a local depository all monies
20 collected by them and due and owing clients, and to keep such monies deposited
21 until those monies or equivalent amounts are remitted to such clients;
22 experiencing shortages in the combined trust account and operating account
23 during twelve month-ends of the twelve month-end-review period ending
24 January 31, 2009;

25 b. A.A.C. R20-4-1504(B)(5) by failing to keep and maintain books, accounts, and
26 records adequate to provide a clear and readily understandable record of all

1 business conducted by the collection agency, including Respondents' trust
2 account reconciliations, prepared at least once a month;

3 c. A.A.C. R20-4-1504(B)(6) by failing to keep and maintain books, accounts, and
4 records adequate to provide a clear and readily understandable record of all
5 business conducted by the collection agency, including books, records, and files
6 maintained so that the Superintendent can easily conduct an unannounced spot
7 check, as well as the required examinations and investigations;

8 d. A.A.C. R20-4-1505(E) and A.A.C. 20-4-1505(C) by failing to withdraw from
9 their trust account all fees and commissions due to Respondents under their
10 contract with a client and deposit them directly into their own operating account;
11 and failing to deposit in their trust account only the funds they have collected for
12 their client; and

13 e. A.R.S. §§ 32-1053(A)(1), 32-1051(1) and A.R.S. § 47-1201 by failing to meet
14 their financial responsibility, by having a negative net worth of <\$130,360> and a
15 negative trust account balance of <\$48,190>, as of October 31, 2008.

16 3. Respondents failure to conduct their collection agency business in accordance with
17 the law, constitutes grounds to suspend or revoke Respondents' collection agency license pursuant to
18 A.R.S. § 32-1053(A)(3).

19 4. Pursuant to A.R.S. § 32-1053(A)(1), the Superintendent may deny a license to a
20 person or suspend or revoke a license pursuant to Title 41, Chapter 6, Article 10, if the
21 Superintendent finds that an applicant or licensee is insolvent as defined in A.R.S. § 47-1201(23).

22 5. Greentree is insolvent within the meaning of A.R.S. § 47-1201(23).

23 6. Greentree has violated A.R.S. § 32-1051(1) by failing to meet its financial
24 responsibility.

25 7. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes
26 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation

1 for each day.

2 The violations set forth above constitute grounds for: (1) the issuance of an order pursuant to
3 A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the
4 appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent,
5 to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the
6 imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation
7 of Respondents' license pursuant to A.R.S. § 32-1053; and (4) an order or any other remedy
8 necessary or proper for the enforcement of statutes and rules regulating collection agencies pursuant
9 to A.R.S. §§ 6-123 and 6-131.

10 ORDER

11 1. Greentree and Ms. Rountree shall immediately, upon execution of this Consent Order,
12 voluntarily surrender to the Department their Collection Agency License, Number CA 0909508,
13 issued in the name of Greentree & Associates, Inc.

14 2. At the time of execution of this Order, Greentree and Ms. Rountree shall:

- 15 a. Submit to the Department a report showing that trust funds belonging to all of
16 Respondents' Arizona clients have been returned; and
17 b. Provide correspondence to the Department indicating where Respondents'
18 Arizona business will be referred and where Respondents' records for Arizona
19 business transactions are located.

20 3. Greentree and Ms. Rountree shall immediately pay to the Department the
21 examination fee in the amount of **nine hundred ten dollars (\$910.00)**, pursuant to A.R.S. § 6-125.

22 4. The provisions of this Order shall be binding upon Greentree and Ms. Rountree, their
23 employees, agents, and other persons participating in the conduct of the affairs of Greentree &
24 Associates, Inc.

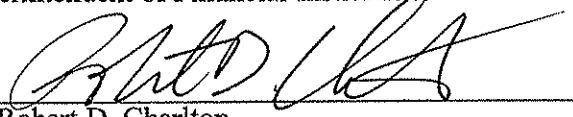
25 5. The provisions of this Order shall be binding upon Greentree and Ms. Rountree, and
26 resolves the Notice of Hearing to Revoke and Complaint, subject to Respondents' compliance with

1 the requirements of this Order, as well as all other statutes and rules regulating collection agencies.

2 6. This Order shall become effective upon service, and shall remain effective and
3 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
4 or set aside.

5 SO ORDERED this 10 day of May, 2010.

6 Lauren W. Kingry
7 Superintendent of Financial Institutions

8 By 
9 Robert D. Charlton
Assistant Superintendent of Financial Institutions

10 **CONSENT TO ENTRY OF ORDER**

11 1. Respondents acknowledge that they have been served with a copy of the foregoing
12 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
13 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

14 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the
15 foregoing Findings of Fact, Conclusions of Law, and Order.

16 3. Respondents state that no promise of any kind or nature has been made to induce them
17 to consent to the entry of this Order, and that they have done so voluntarily.

18 4. Respondents agree to cease from engaging in the violative conduct set forth above in
19 the Findings of Fact and Conclusions of Law.

20 5. Respondents acknowledge that the acceptance of this Agreement by the Superintendent
21 is solely to settle this matter and does not preclude this Department, any other agency or officer of
22 this state or subdivision thereof from instituting other proceedings as may be appropriate now or in
23 the future.

24 6. Tina Rountree, on behalf of Greentree & Associates, Inc. and herself, represents that
25 she is the CFO and President, and that, as such, has been authorized by Greentree & Associates, Inc.
26 to consent to the entry of this Order on its behalf.

7. Respondents waive all rights to seek judicial review or otherwise to challenge or contest the validity of this Order.

DATED this 5 day of May, 2010.

~~By~~

Tina Rountree, CFO and President
Greentree & Associates, Inc.

ORIGINAL of the foregoing filed this 10th
day of May, 2010, in the office of:

Lauren W. Kingry
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan L. Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

COPY mailed/delivered same date to:

Craig A. Raby, Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Robert D. Charlton, Assistant Superintendent
Mack Wynegar, Senior Examiner
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

Tina Rountree, CFO/President
Greentree & Associates, Inc.
508 W. Mission Avenue, Suite 200
Escondido, CA 92025
Respondents

800274